

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)	
)	
v.)	Crim. No.13-10200-GAO
)	
DZHOKHAR A. TSARNAEV,)	
Defendant)	

**GOVERNMENT'S OPPOSITION TO DEFENDANT'S
MOTION FOR LEAVE TO FILE RESPONSE AND
MOTION TO STRIKE DEFENDANT'S RESPONSE**

The United States respectfully moves the Court to deny Tsarnaev's motion for leave to file a response to the Government's Surreply to Defendant's Motion for Change of Venue. It also moves to strike Tsarnaev's response and the attached 40-page affidavit of Neil Vidmar, which Tsarnaev has filed without bothering to await a decision from the Court on his motion for leave to file.

The Local Rules do not authorize the filing of a response to a surreply -- for good reason. Two full rounds of briefing on the venue issue is enough. In support of his request for a change of venue, Tsarnaev has already filed two motions; a 37-page affidavit from Edward Bronson, whom he claims is the country's leading expert on venue; and thousands of pages of exhibits. Now that the government has responded to both, he seeks to file a third brief along with an affidavit from another purported expert for the purpose of bolstering the testimony of his first expert.

The Court should enforce the Local Rules and impose some discipline on the briefing process. By ignoring deadlines and filing unauthorized briefs without first obtaining permission, Tsarnaev has indicated that he does not believe the rules apply to him. If the Court permits Tsarnaev to ignore the rules and litigate every issue to his own satisfaction, the result will be needless delay and wasted time, money and effort.

This latest filing is a good example. Professor Vidmar not only endorses the work of Professor Bronson but offers his own opinion that in this case voir dire would be an ineffective means of seating an impartial jury. In support of that claim he cites reasons and research different from what Professor Bronson relied on. See, e.g., Vidmar Aff. ¶ 20. If the Court grants Tsarnaev's motion for leave to file, the government will be obliged to seek leave to respond to these new arguments -- if only to make sure the record is complete in the event of an appeal. The government should not be forced to spend its time, energy, and resources on a single issue such as venue merely because Tsarnaev has decided that there should be no limits on his right to litigate it.

WHEREFORE, the government respectfully requests that the Court deny Tsarnaev's motion for leave to file and strike his response and the attached affidavit.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to those indicated as non-registered participants on this date.

/s/ William D. Weinreb
WILLIAM D. WEINREB